

IN THE CIRCUIT COURT OF COLE COUNTY  
STATE OF MISSOURI

PEOPLE NOT POLICIANS;  
RICHARD VON GLAHN,  
*Plaintiffs,*

v.  
DENNY HOSKINS, in his official  
Capacity as the Missouri Secretary  
of State  
*Defendant.*

Case No. 25AC-CC08724

**MOTION FOR JUDGMENT IN FAVOR OF PLAINTIFFS ON COUNT I**

Defendant Secretary of State Denny Hoskins, in his official capacity, by and through counsel respectfully moves this Court to enter judgment in favor of Plaintiffs on Count I in the above captioned matter. In support of this motion, the Secretary provides the following suggestions in support.

**SUGGESTIONS IN SUPPORT**

On November 20, 2025, Plaintiffs filed their petition in the above-captioned matter. Plaintiffs’ petition contains two counts. The first count challenges the fairness and sufficiency of the summary statement drafted by the Secretary for Referendum Petition 2026-R004 (“2026-R004”). Pet. at

¶¶ 17–37. Plaintiffs allege that the “summary statement uses language which is intentionally argumentative and likely to create prejudice for the measure.”

*Id.* at ¶ 21. The second count challenges the Secretary's authority to draft summary statements for referendum petitions. *Id.* at ¶¶ 38–41. Plaintiffs request that the Court "declare" the summary statement "unfair and insufficient and remand it to the Secretary to draft a new, compliant summary statement." *Id.* at p. 6. Alternatively, Plaintiffs request that the Court declare the summary statement "invalid and unlawful" should the Court determine that "the Secretary is not authorized to draft a summary statement for a referendum." *Id.*

On January 8, 2026, the Secretary informed Plaintiffs' counsel that the Secretary would not contest their claim that the summary statement is argumentative and likely to create prejudice, thus offering full relief on Count I. At the suggestion of Plaintiffs' counsel, the Secretary drafted a joint proposed order to the Court. Ex. A (Email (Jan. 8, 2026, 5:17 p.m.)). On January 9, 2026, Plaintiff proposed significant revisions to the Secretary's proposed order. Ex. B (Email (Jan. 9, 2026, 8:58 a.m.)); *see also*, Ex. C (Email (Jan. 8, 2026, 5:45 p.m.)). Plaintiffs' counsel explained that these revisions were intended to ensure that the Court's order would be sufficiently supported by the record. Ex. B; *see also*, Ex. C.

Later that morning, at a hearing called by the Secretary to announce the change of position, counsel for the Secretary informed the Court of the Secretary's intent not to challenge Plaintiffs' allegation that the summary

statement's language is argumentative and likely to create prejudice. Counsel explained that by conceding the fairness of the summary statement, Plaintiffs were entitled to full relief permitted under § 116.190, RSMo.<sup>1</sup> At the hearing, the parties represented to the Court that they were in discussions related to preparing a joint proposed order and were close to agreement.

Shortly after the hearing, the Secretary accepted the majority of Plaintiffs' suggestions, requesting only minor edits to the proposed joint order. The Secretary also reiterated his commitment to reaching an agreement with the Plaintiffs. Ex. D (Email (Jan. 9, 2026, 10:25 a.m.)); Ex. E (Email (Jan. 9, 2026, 10:52 a.m.)). Opposing counsel initially stated they would take a look and get back to the Secretary by Monday. Ex. F (Email (Jan. 9, 2026, 10:36 a.m.)). A week later, opposing counsel informed the Secretary that Plaintiffs were no longer interested in pursuing the joint order and, rather than receive the relief requested on Count I, wanted to proceed to trial on the claim the Secretary offered to concede. Ex. G (Email (Jan. 16, 2026, 9:08 a.m.)). Counsel did, however, suggest his office was amenable to further joint stipulations to narrow the scope of trial and would prepare proposed stipulations. *Id.*

On January 23, 2026, the Missouri Supreme Court overruled Senate Bill 22 on procedural grounds. *Nicholson v. State*, SC 101308 (Mo. banc January

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<sup>1</sup> All statutory references are to the 2024 version of the Revised Statutes of Missouri, unless otherwise noted.

23, 2026). As relevant to this case, Senate Bill 22 amended § 116.190 to mandate a process through which, upon finding a summary statement unfair and insufficient, circuit courts were required to remand the statement to the Secretary for revisions. In light of *Nicholson*, § 116.190 reverts to its form prior to the amendment.<sup>2</sup> Consequently, the rewrite process is no longer mandated. Instead, the Court has options in determining the appropriate method for providing Plaintiffs with relief.

On January 22, 2026, Plaintiffs made clear that they would like a full trial on Count I of their petition, foreclosing further discussions on stipulations. Ex. H (Email (Jan. 22, 2026, 12:10 p.m.)). Accordingly, on January 28, 2026, the Secretary filed a motion to amend his answer. Mot. to Am. Answer (Jan. 28, 2026). The Secretary's amended answer admits the facts that establish standing for the Plaintiffs and concedes that the summary statement is argumentative and likely to create prejudice. Am. Answer at ¶ 21; *see also id.* at ¶¶ 26, 27, 36, 37. The Secretary also admits that Plaintiffs are entitled to complete relief on Count I. *Id.* at p. 5–6.

## I. Argument

Despite Plaintiffs' desire to present evidence against the fairness and sufficiency of the Secretary's initial summary statement for 2026-R004, there

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<sup>2</sup> All references to § 116.190 refer to the version of the statute in place in 2024, prior to Senate Bill 22.

is no longer an active controversy sufficient to support a hearing on Count I of Plaintiffs' petition. Consequently, this Court should enter judgment in favor of Plaintiffs and "declare [the] summary statement unfair and insufficient and remand it to the Secretary of State to draft a new, compliant summary statement." Pet. at p. 6. Alternatively, the Court should enter judgment in favor of Plaintiffs and request both parties present proposed statements to the Court and provide briefing in support for the Court to consider in drafting a fair and sufficient statement. Any further opinion on the merits of Claim I would be advisory and outside the jurisdiction of this Court.

**a. The Secretary concedes that the summary statement, as written, is argumentative and likely to create prejudice. This admission entitles Plaintiffs to complete relief on Count I.**

To prevail on a ballot title challenge under § 116.190, a petitioner must demonstrate that the summary statement "insufficient or unfair." See § 116.190.3; see also *Sedey v. Ashcroft*, 594 S.W.3d 256, 263 (Mo. App. W.D. 2020). These are separate inquiries. See § 116.190.3; see also *Seay v. Jones*, 439 S.W.3d 881, 888 n.4 (Mo. App. W.D. 2014). And a determination of unfairness *or* insufficiency supports a finding in favor of Petitioners. In other words, if the ballot is unfair, it is not necessary for the challenger to establish that the statement is also insufficient.

The Secretary made judicial admissions that that the summary statement drafted for 2026-R004 is unfair. Am. Answer at ¶¶ 21, 26, 27, 36, 37. These admissions are sufficient for the Court to grant Plaintiffs' relief on Count I.

On January 9, 2026, in the presence of this Court, the Secretary's counsel admitted the Secretary would not contest Plaintiffs' claim that the summary statement is inherently prejudicial and likely to create prejudice. The Secretary's counsel expressed the Secretary's willingness to rewrite the summary statement in a manner that complies with § 116.334. Additionally, the Secretary amended his answer to Plaintiffs' petition and admitted that the summary statement is unfair and uses language which is argumentative and likely to create prejudice for the measure. Am. Answer at ¶¶ 21, 37. The Secretary also admitted the facts necessary to establish standing for Plaintiffs and admitted that Plaintiffs are entitled to relief on Count I. *Id.* at ¶¶ 1-5. Moreover, to support these admissions the Secretary admitted that, in the context of this statement, the term "gerrymandered" and the phrase "protects incumbent politicians" are argumentative and likely to create prejudice. Am. Answer at ¶¶ 26, 27.

It is well-established that "where an answer admits allegations in a petition then those admissions constitute binding judicial admissions." *Peace v. Peace*, 31 S.W.3d 467, 471 (Mo. App. W.D. 2000) (citing *In re Marriage of*

*Maupin*, 829 S.W.2d 125, 127 (Mo. App. S.D.1992)). And such admissions “obviate any need for evidence on that issue.” *Custom Constr. Sols., LLC v. B&P Contr., Inc.*, 684 S.W.3d 148, 162 (Mo. App E.D. 2023); see also *Meekins v. St. John’s Reg’l Helth Ctr.*, 149 S.W.3d 525, 531 (Mo. App. S.D. 2004) (“A judicial admission is made in court or preparatory to trial by a party or his attorney that concedes, for the purposes of that particular trial, the truth of some alleged fact so that one party need offer no evidence to prove it.” (cleaned up)). In effect, judicial admissions “remove[] the proposition in question from the field of disputed issues in the case.” *Meekins*, 149 S.W.3d at 531. Thus, whether the Secretary drafted an unfair statement is no longer a disputed issue in this case.

The Secretary is bound by the admissions made in his amended answer and the representations made at the January 9th hearing that he would not contest Plaintiffs’ assertion that the summary statement is argumentative and likely to create prejudice. *Custom Constr. Sols., LLC*, 684 S.W.3d at 162. Consequently, Plaintiffs need not present any evidence to establish that the summary statement is unfair, argumentative, and likely to create prejudice. *Id.* (stating that judicial admissions “obviate any need for evidence on that issue”). In other words, the record sufficiently supports a finding by this Court that the summary statement, as written, is unfair. This supports a finding

that the statement is unfair or insufficient as required by § 116.190 to grant Plaintiffs complete relief under the statute. *See Seay*, 439 S.W.3d at 888 n.4.

Plaintiffs' belief that more is required for the circuit court to grant relief is unfounded. First, the Secretary admits Plaintiffs had standing to bring Count I. *See* Am. Answer ¶¶ 1–5. Second, an admission that the summary statement is argumentative and likely to create prejudice is sufficient to establish that the summary statement is unfair. *See Brown v. Carnahan*, 370 S.W.3d 637, 654 (Mo. banc 2012) (“The secretary of state’s summary statement must be ‘concise’ and cannot be ‘intentionally argumentative or likely to create prejudice.’”); *see also* § 116.334.1. An argumentative statement that is likely to create prejudice cannot be found fair. *Hill v. Ashcroft*, 526 S.W.3d 299, 308 (Mo. App. W.D. 2017) (“[T]he words insufficient and unfair . . . means to inadequately and with bias, prejudice, deception and/or favoritism state the [consequence of the initiative].” (second and third alteration in original) (quoting *State ex rel. Humane Soc’y of Mo. v. Beetem*, 317 S.W.3d 669, 673 (Mo. App. W.D. 2010))). And Plaintiffs must only establish that the statement is unfair or insufficient. § 116.190.3; *Seay*, 439 S.W.3d at 888 n.4. Consequently, the Court should enter judgment in favor of Plaintiffs.

**b. Because no justiciable controversy exists, any additional findings by this Court would constitute an advisory opinion.**

While the Secretary does not contest that Plaintiffs' had standing to bring the initial lawsuit, Plaintiffs no longer have standing to pursue their challenge to the summary statement as drafted. A cause of action becomes moot "when the question presented for decision seeks a judgment upon some matter which, if the judgment was rendered, would not have any practical effect upon any then existing controversy." *Mo. Bankers Ass'n v. St. Louis, Cnty.*, 448 S.W.3d 267, 270 (Mo. banc 2014) (cleaned up).

Plaintiffs' are entitled to full relief on Count I as a result of the Secretary's concessions. When a summary statement is unfair or insufficient, Section 116.190 governs the appropriate relief. And Section 116.190.4 provides that, upon finding the summary statement unfair and insufficient, the Court must "in its decision certify the summary statement portion of the official ballot title to the secretary of state." Moreover, §116.190.3 provides that, in their petition, Plaintiffs must "request a different summary statement portion of the official ballot title." Read together, the only relief Plaintiffs may obtain under § 116.190 is a "different summary statement."

The Secretary's admissions sufficiently establish the unfairness of the summary statement and remove the issue from contention in the case. *Custom Constr. Sols., LLC*, 684 S.W.3d at 162. This entitles Plaintiffs to complete relief

under § 116.190 and eliminates the controversy between the parties with respect to the current summary statement. Consequently, to the extent Plaintiffs request additional relief or declarations from the Court on Count I, those requests are moot.

Plaintiffs are not entitled to more relief on Count I than a different summary statement. Thus, additional findings from the circuit court would constitute an advisory opinion. The Secretary admitted that the summary statement, as drafted, is argumentative and likely to create prejudice. The parties, therefore, agree that the summary statement as drafted is unfair and that Plaintiffs are entitled to relief. Consequently, the issue of the summary statement's fairness and whether Plaintiffs are entitled to relief are "remove[d] . . . from the field of disputed issues in the case." *Meekins*, 149 S.W.3d at 531. Without a continuing controversy between the parties, any further decision by this Court would be declaratory in nature and rendered an impermissible advisory opinion. *Valley Park Fire Protection Dist. of St. Louis Cnty. v. St. Louis Cnty.*, 265 S.W.3d 910, 913 (Mo. App. E.D. 2008) ("It is essential that a justiciable controversy exist in order for the trial court to exercise its jurisdiction over a petition for declaratory judgment.").

Missouri Courts are not authorized to issue advisory opinions. *State ex rel. Laclede Gas Co. v. Pub. Serv. Comm'n of State*, 392 S.W.3d 24, 38 (Mo. App. W.D. 2012) ("The Commission, the circuit court, and this court should not

render advisory opinions.” (internal citations omitted) (emphasis added)). The “function of [the trial court] is to resolve disputes properly presented by real parties in interest with existing adversary positions.” *Id.* Further determination by the Court on the fairness or sufficiency of the statement would be advisory as it would not provide the Plaintiffs with additional or greater relief and would not resolve an active controversy.

**c. Granting judgment in favor of Plaintiffs favors judicial economy.**

Granting judgment in favor of Plaintiffs avoids wasting judicial resources and does not prejudice Plaintiffs. Plaintiffs receive, in full, the relief sought on Count I. *See* Pet. at p. 6. In fact, the only appropriate remedy under § 116.190 is to certify a “different summary statement.” Further, granting relief now promotes efficiency in the process. Ballot title challenges are subject to an accelerated timeline for resolution. §§ 116.190.1, 116.190.5. Granting Plaintiffs relief now avoids further delay in the process.

**d. The Court may determine the process for relief.**

As a result of the Missouri Supreme Court’s decision in *Nicholson*, the Court is no longer required to remand the summary statement to the Secretary for revisions. However, the Court is not prohibited from following this approach.<sup>3</sup> Section 116.190 now requires that the court certify a different

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<sup>3</sup> The Missouri Supreme Court did not hold that Senate Bill 22’s amendment to § 116.190 was improper or illegal. *See Nicholson*, SC 101308.

summary statement to the Secretary to grant relief. And the Court may determine that the best course of action is to request that the Secretary rewrite the statement to grant Plaintiffs' request in their petition that the Court "remand [the summary] to the Secretary to draft a new, compliant summary statement." Pet. at p. 6. The Court could then request briefing and a hearing on the revised summary statement.

While the Court may follow the rewrite process, it is no longer mandated by statute. Thus, the Court may choose to revert to the prior practice of requesting that each party submit a proposed statement to the Court for consideration along with suggestions in support of the proposed language. The Court could also call a hearing on the proposed statements to ensure Plaintiffs have the opportunity to present arguments.

## II. Conclusion

For the reasons stated above, the Secretary respectfully moves this court to enter judgment for Plaintiffs on Count I of their petition.

Date: January 28, 2026

Respectfully submitted,

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